IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 4TH DECEMBER 2006 / 13TH AGRAHAYANA 1928

Crl.MC.No. 3522 of 2006()

AGAINST THE ORDER DATED 26/10/2006 IN CMP.2973/2006 IN CC.144/2005 of

.....

PETITIONER: ACCUSED

RADHAKRISHNAN, S/O.RAGHAVAN PILLAI,
THEKKEKAVALLOOR P.O., KUTTIKADA DESOM,
KEEZHAROOR VILLAGE, THIRUVANANTHAPURAM.

BY ADV. SRI.M.SREEKUMAR

RESPONDENTS: COMPLAINANT AND STATE

---

1. K.MURALEESHARAN NAIR, S/O.KESAVA PILLAI,
SWATHY, EDAGRAMAM, KARUMAM P.O.,
NEMOM, THIRUVANANTHAPURAM.

2. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY P.P. SRI. GIKKU JACOB.
BY ADV. SRI.R.T.PRADEEP

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 04/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3522 OF 2006

Dated this the 4th day of December, 2006

ORDER

The petitioner is an accused in a prosecution under Sec.138 of the N.I. Act. The case was filed in 2005. It stood posted for judgment. At that stage, the petitioner appears to have filed this petition to get the cheque (there are two cheques involved in the case) compared with the signature in the acknowledgment card which was produced by the complainant to prove the due service of the notice of demand. Even in the cross-examination, it is pointed out, a dispute was raised that the signature in the acknowledgment card is not that of the petitioner. The learned Magistrate passed the impugned order rejecting the said prayer. The learned Magistrate appears to have felt that the application is belated and that the signature, at an undisputed point of time, was not available for comparison.

2. I shall carefully avoid any detailed discussion or expression of opinion on merits. Suffice it to say that at this stage I am not persuaded to agree that the powers under

Sec.482 of the Cr.P.C. can or need be invoked to interfere with the impugned order. An interlocutory order is kept beyond pale of challenge by revision and the purpose of such bar is evident. The petitioner can certainly challenge the order, if the same be necessary, along with the judgment to be passed in the prosecution.

3. This Crl.M.C. is, in these circumstances, dismissed; but without prejudice to the rights of the petitioner to challenge the impugned order, if the same be necessary, along with the final order to be passed in the prosecution.

Sd/-

(R. BASANT, JUDGE)

Nan/

//true copy//

P.S. to Judge